

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: DEC - 5 1995

Person to Contact:

Contact Telephone Number:

Refer Reply to:

EO: 7321

Employer Identification
Number:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(7) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify for exemption under section 501(c)(7) of the Code.

The evidence presented reveals that you were incorporated on [REDACTED] under the laws of [REDACTED].

The purposes for which your corporation is formed are as follows:

a) To engage in any lawful act or activity for which corporations may be formed under Chapter 599 of the Stock Corporation Act of 1961, as amended.

b) To own maintain and operate aircraft for the purpose of membership flying.

The activities of the organization, as stated in the application is to promote recreational flying within [REDACTED]. The organization has purchased an airplane that is used by members who have been cleared by a flight instructor and abide by FAA regulations. The organization promotes recreational flying by providing a low cost opportunity to fly as opposed to owning a plane. The organization promotes safe flying and provides opportunities for members to be kept up to date on FAA regulation. The organization teaches proper care of a plane and assists those individuals with the maintenance care of the plane. In order to help cover the fixed cost of operation, the plane is leased to the [REDACTED] at the airport where the plane is kept. The [REDACTED] leases the plane to private pilots for their personal uses. The [REDACTED] pays the organization an hourly rate for the hours used..

Section 501(c)(7) of the Code provides exemption to clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Public Law 94-568 amended IRC 501 to reflect a twofold change under IRC 501(c)(7). First, it makes it clear that a social club may receive some investment income without losing its exempt status. Second, it permits a higher level of income from nonmember use of club facilities than was previously allowed.

In addition, Public Law 94-568 defines gross receipts as those receipts from normal and usual activities of a club including charges, admissions, membership fees, dues, assessments, investment income, and normal recurring capital gains on investments, but excluding initiation fees and capital contributions. Public Law 94-568 also states that it is intended that social clubs should be permitted to receive up to 35 percent of their gross receipts, including investment income, from sources outside of their membership without losing their exempt status. Within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of the social club's facilities or services by the general public. Thus a social club may receive investment income up to the full 35 percent amount of gross receipts. If a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facility, that income is not to be included in the 35 percent formula; that is, unusual income is not to be included in the gross receipts of the club.

Revenue Ruling 66-149, 1966-1 C.B. 146 holds that a social club is not exempt from Federal income tax as an organization described in section 501(c)(7) of the Code where it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments which it owns. However, a club's right to exemption under section 501(c)(7) of the Code is not affected by the fact that for a relatively short period a substantial part of its income is derived from investment of the proceeds of the sale of its former clubhouse pending the acquisition of a new home for the club.

Revenue Ruling 70-32, 1970-1 C.B. 132 states that a flying club providing economical flying facilities for its members but having no organized social and recreation program does not qualify for exemption under Section 501(c)(7) of the Code.

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Your primary activities are very similar to the activities of the organization described in Revenue Ruling 70-32 in that your primary activity is to own, maintain and operate a plane for the purposes of membership flying with no organized social and recreational programs and activities.

The organization informs that they hold monthly meetings, promote safe flying and provide opportunities for members to be kept up to date on FAA regulations. However, your organization does not really carry on any significant social or recreational activities. There is no significant commingling of its members. The rendition of the kind of services that you are providing is not in the nature of social or recreational purpose within the meaning of the statute. In addition, your letter dated [REDACTED], informs that your organization leases its plane to the [REDACTED] at the airport and that the [REDACTED] in turn leases the plane to private pilots (non-members) for personal use.

Your sources of financial support consist of membership dues and rental of plane to non-members. The financial information submitted with your application reflects that a large portion of your income will be from rental of plane to non-members. This rental represents unrelated business income of 29.8% for calendar year [REDACTED].

IRC 501(c)(7) requires clubs to be organized for pleasure, recreation, or other non-profitable purposes. Your club's formation under the for-profit corporate laws of the State of [REDACTED] fails to meet Code requirements.

According to Public Law 94-568, no more than 15 percent of the gross receipts should be derived from the use of the social club's facilities or services by the general public. Therefore, your organization exceeds the limits of Public Law 94-568.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(7) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1580, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours, //

District Director

Enclosure: Publication 892